

**Blake and Sara Ratcliff
3320 Grass Hill Terrace
Falls Church, VA 22044**

14 Aug 2016

Ms. Elizabeth Palen
Division of Legislative Services
Virginia Housing Commission
201 N 9th Street
Richmond, VA 23219

Dear Ms. Palen:

We would like to present an alternative view of short term rental in Lake Barcroft Association from the one you received from Bill Lecos dtd 12 Jul 2016¹. We would like to present to the working group why short term rentals are a good thing for communities. We can speak to the significant opportunity AIRBNB presents for aging properties like Lake Barcroft's and how AIRBNB helps residents afford the repairs and upkeep that will allow them to stay in their homes. We can also provide information supporting Cornell University studies² showing that home values in communities with AIRBNB hosts in them increase in value.

Please be advised that we have filed a formal complaint with the Department of Professional and Occupational Regulation's Common Interest Communities Board³. I'm including a copy of the executive summary which outlines LBA's refusal to acknowledge or follow Virginia Property Owners Association Act rules, refusal to comply with the Virginia Supreme Court case law ruling involved in Scott v. Walker, their active disregard for their own due process rules, and misconduct by their Board lawyer⁴. We documented over 170 violations of these state laws including violations of the Virginia Fair Housing Laws. Even the letter you received is further evidence of their defiance of state legislated laws. It was posted on the website for public review the same day the LBA Newsletter was published and distributed to 1045 residents messaging to them, contrary to state law, that short term rentals are not allowed here. They believe the State legislature's actions do not apply to them⁵ and they have authority to regulate based on local consensus rather than the State's rule of law.

¹ 12 Jul 20 Bill Lecos letter re: Short-term Rental Working Group (Tab 1)

² Cornell University case study, "Can Short-term Rental Arrangements Increase Home Values? A Case for AIRBNB and other Homesharing arrangements." (Tab 2)

<http://scholarship.sha.cornell.edu/cgi/viewcontent.cgi?article=1133&context=crer>

³ Department of Professional and Occupational Regulation complaints dtd 11 Aug, 14 Aug and 14 Aug 2016. (Tab 3)

⁴ DC and VA Bar Complaints dtd 14 Aug 2016 (Tab 4)

⁵ Aug 2016 LBA Newsletter article, "Are Short-Term Rentals a Problem? LBA to hold Community Meeting in September.

At the heart of the matter is a problem we have with a neighbor who regularly watches us, our family and our workmen from her upstairs window in an unhealthy, nearly obsessive manner. Every visitor to our home has commented on it. We are being forced to purchase sunsails to serve as screens over our deck and pool to protect our privacy. This neighbor has no idea who is an AIRBNB guest and who is a family member or friend visiting us.

We live in our home fulltime. We have five times as many personal guests as guests who visit through AIRBNB. She attempted to incite our neighbors by leading them and the Board to believe that all guests at our home are short term renters when in truth (and it is easily confirmed by visiting our AIRBNB website) that we rent generally 2 weekends a month for a total of 4 days/month eight months out of the year. I do not believe that qualifies as "high volume short term rentals" as stated by the Board President. Likewise, of 1045 residents, only 2 homeowners host on AIRBNB, yet the Board has focused on this topic nonstop for 10 months as though we are a blight on the community, actively vilifying us in monthly Board minutes and now in the August newsletter. The persecution we are facing is unfathomable when, as the County's Code investigator said, "you haven't broken any laws or codes." The Board repeatedly fails to check a single fact. This neighbor conducted a door to door campaign to upset our community. She managed to get 14 neighbors, 10 of whom cannot see our home from their property, do not know us to see us and do not pass our home up a steep hill at the end of a cul de sac, to sign a letter accusing us of having "people who haven't been investigated," "people intent on doing us harm," "sex offenders" etc⁶. The neighbor generated 3 letters from the street residents harassing us the day (30 Nov) after my daughter's Nigerian college roommate (an Olympian) visited at Thanksgiving.



⁶ 30 Nov 2015 Grass Hill Terrace neighbors complaint letter

This same neighbor followed one of my son's friends to his car one Sunday morning (5 Jun) and took down his license. The friend is African American. Less than a week after we hosted Black Pride friends at our home, she led 6 neighbors to give statements about "security" at the 8 Jun LBA Board meeting⁷.

We have consistently cautioned the Board that these complaints are about racism and not about AIRBNB. When the Board received the neighbors original complaint, the Board's lawyer had to rewrite the complaint to remove the racist references for the Board's demand letter⁸. We find it unacceptable for the Board President, with full knowledge of this problem, to make the statement in the letter you received, "It is imperative that local homeowner and property owner associations retain their authority to regulate the character of their communities."

For your situational awareness, I am enclosing Lakelink emails from July that began over a racist "troubling incident" former LBA Board President reported. A number of Lake residents who are people of color shared bias they have faced at the hands of Lake neighbors.⁹ I am enclosing emails about the ongoing fight in the community over whether the local high school named for a Confederate general who lost his life defending slavery should be changed. The community's passionate support for retaining that legacy was so disturbing many Lake residents opted to cancel their membership on the server.¹⁰ Perhaps I should mention, we are Caucasian.

We are heartsick about all of this. Please do not let this community continue this culture of prejudice. We engaged a Fairfax County land use attorney to make sure we were compliant with state and local laws. We have been in regular contact with Fairfax County to ensure our activities are aligned with ordinances. We have paid our Transient Occupancy Tax and have encouraged Fairfax to follow Arlington's lead and collect the taxes directly from AIRBNB at point of transaction. We require our guests to follow trash pick up schedules, to be aware of County noise ordinances, and we provide a copy of the Community's common property and beach rules as any tenant would receive.

For your information, we prefer to rent to people who have used AIRBNB before and received high ratings. All of our guests are required to be ID verified. AIRBNB insures us and the HOA. Several guests have been Lake residents who needed more room for family in town for weddings. One former resident wanted to return to the neighborhood where they lived growing up to bury their soldier dad at Arlington Cemetery. One local lady just wanted to "belong somewhere" the weekend her husband of 14 years was leaving her so we took her in. One

⁷ 8 Jun 2016 LBA Board Minutes.

<http://www.lakebarcroft.org/sites/default/files/boards/2016/420LBA/420LBA%20June%202016.pdf>

⁸ 18 Dec 2015 LBA Demand Letter rewritten by Pat Payne, LBA Legal Chair

⁹ 7 Jul 2016 "Troubling Incident" email by former LBA Board President Jim Kilbourne and community responses of other discriminatory acts against residents who are people of color.

¹⁰ JEB Stuart name change emails from Lakelinks.

local had just finished chemo and wanted to be able to go to a pool for the first time since her cancer was diagnosed. My husband is a Naval Academy grad and was happy to host USNA grads who wanted to get family together for the grandson's first birthday. These are the people that our "creeper" neighbor calls sex offenders and people intent on doing them harm. It needs to be reiterated that the Board has not investigated a single claim or checked or identified any police reports on these scurrilous allegations generated by the problem neighbor but publishes them as though they are factual.

When my husband lost his job last year, AIRBNB was a godsend for us to be able to hold onto the house. Others lost retirement savings during the recession and AIRBNB helps them stay in their homes. A prominent Lake resident contacted us privately relieved to know that short term rentals are legal in Virginia because of elderly and down on their luck neighbors who need help making ends meet. But letters like the one you received from the Board that was posted on the Association website are designed to scare them. The people violating state law is the LBA Board by continuing to message to the community that they can't rent short term despite the Virginia State Law specifically stating Associations shall not condition or prohibit us from doing so.

AIRBNB is under attack because of concerns that hosts discriminate and don't accept minority guests¹¹. If others have faced what we are facing, the problem is not with hosts being unwilling to have minorities in their homes...they have to deal with unabated racism by neighbors who throw grenades at us without having ever spoken a word to us.

Please protect and preserve our right to rent our home. The state needs our tax money. The nation's communities need to move past "cultures" that only people who "look like us" are allowed to live here even if just for a weekend. This bias must stop. Please recognize the fight against AirBNB for what it is and help us take a stand against prejudice.

Respectfully,


Blake and Sara Ratcliff

¹¹ 17 Jun 2016, "More AirBNB customers are complaining about racism."
<http://www.economist.com/blogs/culture/2016/06/why-airbnb-homes>

TAB 1



Lake Barcroft Association, Inc. (LBA)

Ms. Elizabeth Palen
Division of Legislative Services -- VA Housing Commission
201 N 9th St
Richmond, VA 23219

Subj: Short-term Rental Working Group

July 12, 2016

As a home owners association of 1,045 homes the Lake Barcroft Association is deeply concerned that any recommendations for legislation addressing short-term rentals in Virginia not restrict or pre-empt the right of property owner associations to set rules and regulations that are appropriate for that community.

In the case of Lake Barcroft, we are a private, single family home community which includes a commonly-owned 140-acre swimmable lake that includes five common use beaches and gardens. The challenge of managing the liability of this facility hinges upon maintaining access to insurance products that are only available through our implementation of strict rules regarding access and use of the facility. Homeowners do not have an unrestricted use to our facilities at all times of the day or with unlimited guest privileges. Short-term rentals – particularly when the resident owner(s) are not present – pose a very real threat to the community's ability to maintain our insurable status as it is extraordinarily difficult to enforce our lake use regulations to transient renters. If a transient occupant of a community residence were ever to be involved in an accident on our common property – including the beaches and lake – it could severely undermine the community's ability to maintain our critical access to insurance markets.

Additionally, since its inception our community has had covenants that limit the use of the private, single family homes in Lake Barcroft for various home-based businesses. While the rules governing home-based businesses in our community have evolved over the years they have done so through the normal rule-making processes provide through the governance defined in our covenants. This process is grounded in community consensus. There is no consensus that transient rental businesses akin to hotel operations, with the accompanying impacts of noise, traffic and constant transiency, should be an allowable home-based business in our community.

There are also concerns that the introduction of high volume short-term rentals undermines the closeness of our community culture and compromises the neighborly commitment to maintaining the quiet, peaceful nature of the community.

Unrestricted rental of houses on a short-term basis destroys a neighborhood's character and security making neighborhood watch programs useless as large groups of strangers stream in and out of a house on a regular basis.

Over the last year a number of neighbors that live in close proximity to high-volume short-term home rental businesses utilizing the Airbnb platform have come before our community association. These neighbors note that that the short-term rental properties have compromised their property right to live in the type of neighborhood they expected when they purchased a home in our community. It is evident that the rental properties owners are absent during rentals and are not monitoring the activity at the property during rentals of the house. There is no assurance that posted occupancy limits for properties are being followed. Adjacent neighbors are not informed of rental activity or about upcoming bookings nor are adjacent neighbors provided with contact information to register complaints to the rental property owners about their renters.

The lucrative economic potential from short-term rental properties could incentivize commercial interests to purchase homes that come up for sale in our community and turn them into short-term rental properties. The impact that this would have on our tight-knit community would be profound and problematic. Neighboring property owners would face uncertainty in their home investment as their valuation is diminished for houses adjacent to this kind of commercial activity. These families also face a dilemma as to their duty to disclose nearby commercial rental activity to potential buyers.

As this working group forms recommendations on legislation addressing short-term rentals in Virginia it is imperative that local homeowner and property owner associations retain their authority to regulate the character of their communities.

Sincerely,



William D. Lecos
President, Lake Barcroft Association
Falls Church, VA

CC: Senator Richard Saslaw
Senator David Marsden
Delegate Kaye Kory